

HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G. BHAVANI PRASAD

WRIT APPEAL NO. 226 OF 2006

BETWEEN

M. Nagaraju

.....Appellant

And

The District Collector, Kurnool & others

.....Respondents

:: JUDGMENT ::

Counsel for the Appellant : Shri Kasa Jagan Mohan

Reddy

Counsel for Respondent Nos.1 to 3 : Government Pleader for

Civil Supplies

Counsel for Respondent No. 4 : Shri K.V. Raghuveer

Dated: 28-02-2006

Per G.S. SINGHVI, CJ

Whether Revenue Divisional Officer, Kurnool could cancel authorization of respondent No.4 Smt. M. Hymavathamma in respect of fair price shop No.11 of Hussainapuram village, Orvakal mandal, Kurnool district on the ground of the alleged irregularities committed in relation to fair price shop No.10, is the question which arises for determination in this appeal filed against order dated 02-12-2005 passed by the learned Single Judge in Writ Petition No.25697 of 2005.

Respondent No.4 was appointed as fair price shop dealer of shop No. 11 of Hussainapuram village of Orvakal mandal. She was also made in charge of fair price shop No.10 because the authorization of Shri G. Ravinder Goud was cancelled on account of diversion of rice meant for 'food for work'. On receipt of complaint that the rice for the month of June, 2002 had not been distributed by respondent No.4 in her capacity as in charge of fair price shop No.10, Revenue Divisional Officer, Kurnool (respondent No.3) issued show cause notice to her for taking action on the basis of five allegations enumerated in the notice. Respondent No.4 denied all the charges and pleaded for dropping the proceedings. By an order dated 30-09-2004, respondent No.3 cancelled the authorization of respondent No.4 in respect of fair price shop No.11. The appeal preferred against that order was dismissed by Joint Collector, Kurnool (respondent No.2), vide his order dated 16-06-2005.

Respondent No.4 challenged orders dated 30-09-2004 and 16-06-2005 in Writ Petition No.25697 of 2005, which was allowed by the learned Single Judge on the ground that the authorization of shop No.11 could not be cancelled on the allegation of the irregularities allegedly committed in the matter of distribution of essential commodities in respect of shop No.10.

Shri Kasa Jagan Mohan Reddy, learned counsel for the appellant argued that even though there is no provision in the Andhra Pradesh Public Distribution

System (Control) Order, 2001 (for short 'the Control Order') under which respondent No.3 can cancel the authorization of the fair price shop dealer in respect of a particular shop on the ground of alleged irregularities committed for other shop, the learned Single Judge should not have interfered with the action taken by respondent Nos. 3 and 2 because, the conduct of the writ petitioner (respondent No.4 herein) was highly contemptuous. He invited our attention to orders dated 30-09-2004 and 16-06-2005 passed by respondent Nos. 3 and 2 respectively to show that action was initiated against respondent No.4 on the basis of a specific allegation of irregularities and argued that the misconduct committed by respondent No.4 while discharging her functions as fair price shop dealer of shop No.10 could be legitimately taken into consideration for cancellation of the authorization of shop No.11.

In our opinion, there is no merit in the argument of the learned counsel. Clause 5 of the Control Order, which provides for grant, renewal and cancellation of authorization of the fair price shop, does not empower any authority to cancel the authorization of a particular shop of the fair price shop dealer on the ground that he/she is guilty of some irregularity or misconduct in relation to some other shop. In our considered view, respondent No. 4 could not have been penalized for the so-called irregularities committed by her as in-charge of shop No.10 and the learned Single Judge did not commit any error by quashing orders dated 30-09-2004 and 16-06-2005.

For the reasons stated above, the appeal is dismissed.

Before parting with the case, we may mention that in compliance of the order passed by the learned Single Judge, District Collector, Kurnool (respondent No.1) vide his order dated 07-01-2006 set aside the order of respondent No.3 and restored the authorization of respondent N0. 4 in respect of shop No.11.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

28-02-2006

